

Remarks

I. Summary of Office Action

Claims 1, 5, 7, 9-11, 13, and 14 were pending in the application. Claims 1, 7, and 11 were rejected under 35 U.S.C. §103(a) as being obvious from Pearl et al. U.S. Patent Publication No. 2003/0093915 (hereinafter "Pearl") in view of Black U.S. Patent Publication No. 2004/0006332 (hereinafter "Black"); Beck et al. U.S. Patent No. 3,967,372 (hereinafter "Beck"); Inagaki U.S. Patent No. 4,924,541¹ (hereinafter "Inagaki"); Bigio U.S. Patent Publication No. 2002/0066150 (hereinafter "Bigio"); and Dahl U.S. Patent No. 3,938,018 (hereinafter "Dahl"). Claim 5 was rejected under 35 U.S.C. § 103(a) as being obvious from Pearl in view of Black, Beck, Inagaki, Bigio, and Dahl, and further in view of Honda et al. U.S. Patent No. 4,732,834 (hereinafter "Honda"). Claims 9, 10, 13, and 14 were rejected under 35 U.S.C. § 103(a) as being obvious from Pearl in view of Black, Beck, Inagaki, Bigio, and Dahl, and further in view of Larsen U.S. Patent No. 6,450,941 (hereinafter "Larsen").

The Examiner's rejections of the claims are respectfully traversed.

II. Summary of Applicant's Reply to Office Action

Dependent claims 13 and 14 have been amended to correctly identify the claim they each depend from. No new matter has been added and the amendments are fully supported by the originally filed claims and specification.

The Office Action's rejections of claims 1, 5, 7, 9-11, 13, and 14 are respectfully traversed.

¹ The Office Action incorrectly identifies U.S. Patent 4,924,341 as having been issued to Inagaki. Applicant assumes that the Office Action sought to refer to U.S. Patent No. 4,924,541 issued to Inagaki, and has prepared this response based on this assumption.

III. The Rejection of Claims 1, 5, 7, 9-11, 13, and 14

The rejection of independent claims 1 and 11 set forth in the Office Action alleges that the claims are obvious under 35 U.S.C. §103(a) from Pearl in view of Black, Beck, Inagaki, Bigio, and Dahl.

Independent claims 1 and 11 are directed towards alopecia healing apparatus having a case with a handle and massage protrusions, an LED light radiating section, a laser radiating section, a vibration device, a control section, and a power source. Among other claimed features, the massage protrusions are made of soft synthetic resin in order to allow a user to feel pleasant when combing a user's hair or when massaging a user's scalp. Additionally, the length of the massage protrusions is gradually increased from a center to upper and lower directions thereof so that uppermost and lowest protrusions have longest length.

The Office Action relies on a combination of Pearl, Black, Beck, Inagaki, Bigio, and Dahl to support its contention that Applicant's claims are obvious. Generally, the Office Action relies on Pearl to teach the case, light radiating section, laser radiating section, control section, and power source of the device; on Black to teach the vibration device; on Beck to teach inclination between a head assembly and handle portion; on Inagaki to teach the use of soft synthetic resin as the massage protrusion material; on Bigio to teach that the length of massage protrusions is gradually increased from a center to upper and lower directions; and on Dahl to teach the use of a rechargeable battery.

Applicant submits that the Office Action's reliance on Inagaki and Bigio is improper.

Firstly, applicant submits that the Office Action's conclusion of obviousness in relation to the Inagaki reference is based on improper hindsight reasoning. The Office Action claims that "it would have

been obvious to one having ordinary skill in the art at the time of the invention to have used synthetic resin for the massage protrusions for its comfortable touch to the body portions of the user because of its appropriate rigidity and flexibility" (Office Action, page 7). The Office Action's claim of obviousness, however, relies on hindsight reconstruction in making the logical leap that Inagaki's stuffing element used to fill bag portions of a bed pad can have sufficient structural integrity to form massage protrusions in applicant's alopecia healing apparatus. The claim of obviousness is tantamount to claiming that a cotton ball, or other element generally used to stuff a pillow or bed-pad, could be used to form applicant's claimed plurality of massage protrusions.

Indeed, Inagaki is directed to bed pads, seat pads, pillows, and other cushion-like items in which synthetic resin pebbles are used as stuffing elements. Specifically, Inagaki teaches that "bag portions" of a bed pad are formed of meshed cloth sheets stitched together, and that the bag portions are filled with stuffing elements of synthetic resin (see, e.g., Inagaki's Fig. 1 and associated description). If anything, applicant submits that the teachings of Inagaki would suggest forming massage protrusions made of meshed cloth sheets and stuffing these protrusions with a stuffing element including pebbles of synthetic resin. Such a combination, however, in no way teaches nor suggests Applicant's claimed "massage protrusions [...] made of soft synthetic resin" (*emphasis added*) and in which the synthetic resin massage protrusions have a length, a direction, and a rounded tip.

For at least these reasons, applicant submits that the Office Action's claim of obviousness relating to Inagaki is improper in that it is based on hindsight reasoning. None of Pearl, Black, Beck, Bigio, Dahl, Honda, Larsen, or their combination make up for the deficiencies in Inagaki. Applicant respectfully requests that the rejection of claims 1 and 11 in view of Inagaki be withdrawn.

Secondly, applicant submits that contrary to the Office Action's contention, Bigio fails to teach that the "length of the bristles [be] gradually increased from a center to upper and lower directions thereof so that the uppermost and lowest protrusions have the longest length" (see Office Action, pages 7-8). The Office Action states that "Inagaki [sic] does not specifically speak to the length of the bristles", but points to Fig. 4 and 7 (presumably of Bigio) to support its obviousness claim. Applicant submits, however, that Bigio's Figure 4 shows a brush having bristles of the same length, while Bigio's Figure 7 shows a brush having bristles having lengths that are decreased from the center in the upper and lower directions such that the uppermost and lowest bristles have the shortest length. In fact, applicant submits that all brushes and bristles taught by Bigio either have bristles that "have substantially equivalent lengths" (Bigio, paragraph 54; and Figs. 1-4), or bristles "of predetermined varying lengths such that hairbrush bristles at central region 74 are longer than bristles at bristle substrate end regions 18, 20" (Bigio, paragraph 57; and Figs. 7 and 17). Applicant submits that, if anything, Bigio teaches away from applicant's claimed "length of the massage protrusions gradually increased from a center to upper and lower directions" by teaching bristles of equivalent lengths or of decreasing length from the center to upper and lower directions.

For at least the reason that Bigio teaches away from applicant's claimed "length of massage protrusions is gradually increased from a center to upper and lower directions thereof so that uppermost and lowest protrusions have longest length", applicant submits that the Office Action's claim of obviousness relating to Bigio is improper. None of Pearl, Black, Beck, Inagaki, Dahl, Honda, Larsen, or their combination make up for the deficiencies in Bigio. Applicant respectfully requests that the rejection of claims 1 and 11 in view of Bigio be withdrawn.

For at least the above reasons, applicant submits that independent claims 1 and 11 are in condition for allowance. Claims 5, 7, 9, 10,

and 13-14, which depend from independent claim 1, are also allowable at least because claim 1 is allowable. Applicant respectfully requests that the rejection of claims 1, 5, 7, 9-11, and 13-14 be withdrawn.

IV. Conclusion

The foregoing demonstrates that claims 1, 5, 7, 9-11, and 13-14 are allowable. This application is therefore in condition for allowance. Reconsideration and allowance are accordingly respectfully requested.

Respectfully submitted,

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